

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Joan G. Lisle,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0871
Parcel No. 171/00360-220-029

On July 16, 2012, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Joan G. Lisle was self-represented. The Polk County Board of Review designated Assistant County Attorney David Hibbard as its representative. Both parties participated by phone. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Joan G. Lisle is the owner of a residential, single-family property located at 955 Sunburst Lane, Altoona, Iowa. The property is a two-story townhouse, built in 1980, and has 1400 square feet of above-grade finish. The basement is 550 square feet and has 234 square feet of average-plus finish. Additional improvements include a 324 square-foot, attached garage; a 100 square-foot, open patio; and a small open porch. The site is 0.045 acres.

Lisle protested to the Polk County Board of Review regarding the 2011 assessment of \$94,900, allocated as follows: \$14,300 in land value and \$80,600 in improvement value. Her claim was based on the following grounds: 1) that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a); 2) that the

property was assessed for more than the value authorized by law under section 441.37(1)(b); and 3) that there is an error in the assessment under section 441.37(1)(c). Her error claim asserts that her property has had no updating and is original throughout. Essentially, she asserts the subject is over-assessed. She believes the correct total value was \$320,000.

The Board of Review denied the protest.

Lisle then appealed to this Board reasserting her claims.

On the Board of Review protest form, Lisle listed four properties as equity comparables. The properties are 964, 953, and 957 Sunburst Lane, as well as 987 10th Avenue NW. Two of the properties (964 and 953 Sunburst) are two-story townhomes like the subject. The other properties are one-story townhomes. None of the properties appear to have sold recently. Lisle did not make any comparisons between these properties and the subject property for an equity analysis. Therefore, we give this information no consideration.

At hearing, Lisle testified that her home is thirty-two years old and needs updating. She reported the property has original windows, carpet, and mechanicals, with the exception of a hot water heater that was replaced four years ago. She compares her property to her neighbor's at 953 Sunburst that has updates and a new deck. However, other than condition, Lisle made no comparisons between her property and 953 Sunburst. Additionally, we again note that 953 has not sold which means it cannot be considered as a comparable for a market value claim.

Lisle also reported a property at 931 Breezewood Circle recently sold, but she did not have any details about the property or the sale. At our request, the Board of Review provided the property record card for 931 Breezewood Circle. This property is a townhouse in the subject's subdivision. However, it is a one-story unit compared to the subject's two-story design; and has

only 714 square-feet of living area as compared to the subject's 1400 square feet of living area.

This property sold after

the assessment date, in May 2012 for \$75,180. Because the property is a smaller, one-story unit, and is unadjusted for differences, we give it no consideration.

The record also includes an appraiser's analysis completed by the Assessor's Office for the Board of Review. The analysis considered five two-story townhomes; however, it is unclear if they are all in the subject's development or competing developments. All five properties are smaller than the subject and range between 1056 to 1274 square feet in living area, compared to the subject's 1400 square feet of living area. The properties sold between May and December 2010, with sales prices ranging from \$65,000 to \$118,500. After adjustments, the sales range from \$58,000 (rounded) to \$97,000 (rounded). However, the adjustments made by the Board of Review appear to be cost adjustments rather than market adjustments. Therefore, we give this analysis no consideration.

Based on the foregoing, we find insufficient evidence has been provided to support the claims raised before this Board. However, we also note that Lisle has requested her property be inspected to ensure that a property condition rating has been considered. Given Lisle's testimony regarding the lack of updates to her property and that the components are largely original, we suggest the Board of Review request an interior inspection to ensure the property is listed appropriately.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). However, new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria

set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”


Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

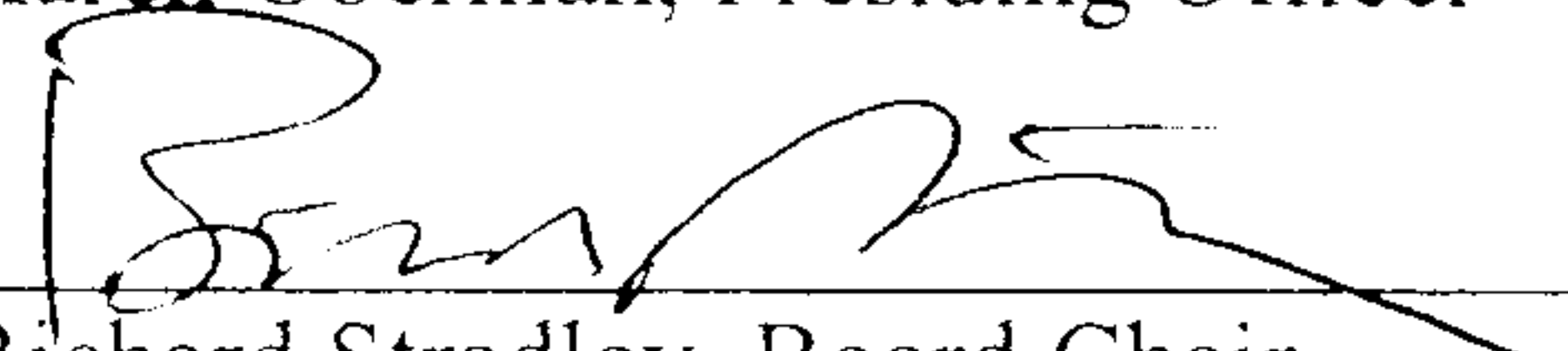
Lisle did not show inequity under the tests of *Maxwell* or *Eagle Foods*.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Lisle did not establish the correct market value of the subject property.

THE APPEAL BOARD ORDERS the assessment of Joan G. Lisle’s property located at 955 Sunburst Lane, Altoona, Iowa, of \$94,900, as of January 1, 2011, set by the Polk County Board of Review, is affirmed.

Dated this 28 day of August, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

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REPRESENTATIVE FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-31</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	